

APPLICANT: JMS Insignia

Development, LLC

Public Notice

ISSUED: 13 February 2004 EXPIRES: 15 March 2004

REFER TO: 03-07305-TJF

SECTION: 404 - Clean Water Act

1. APPLICATION FOR PERMIT TO discharge dredged and fill material into a total of 2.5 acres of waters, wetlands, and ditches to facilitate the construction of a residential development in Otsego, Minnesota, referred to as Martin Farms.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: 80 West 78th Street, Suite 133

Chanhassen, MN 55317

(952) 949-3630

AGENT: Westwood Professional Services, Inc.

7599 Anagram Drive Eden Prairie, MN 55344

(952) 906-7488

PROJECT LOCATION: The project site is located primarily in the SE 1/4 of Sec. 25, T. 121N., R.24W., and the SW 1/4 Sec. 30, T. 121N., R. 23W., Wright County, Minnesota. The approximate UTM coordinates are Zone 15, 449850 East, 5011600 North.

DESCRIPTION OF PROJECT: The project involves the conversion of about 300 acres of primarily agricultural land into a mixed residential development containing about 470 single family homes, 187 townhomes and 240 senior/apartment style units. A roadway and storm water management system would also be created, along with the required wetland replacement areas.

QUANTITY, TYPE, AND AREA OF FILL/IMPACT: Wetland impacts are associated with filling, drainage and excavating. It is estimated that about 1.41 acres of wetland at several scattered locations would be filled for roads and housing pads/yards and 0.38 acre of other wetland areas would be impacted by drainage. Also, the applicant proposes to excavate 0.73 acre of wetland at 2 locations in order to lower their bottom elevations, thereby improving their hydrology and enhancing their long term viability. About 0.08 acre of wetland area would be located within the structural setback zone of the City's ordinances.

These different impacts are scattered at numerous locations among the 34 wetland and ditch areas identified during the wetland delineation process. Most of the wetland areas appear to be part of a tributary system, although some appear to be isolated basins.

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VEGETATION IN AFFECTED AREA: The applicant identified over 30 wetlands and ditch segments scattered on the site. The dominant vegetation was listed as reed canary grass, and the majority of the basins were considered as Type 2 areas. Nearly all of the impacts are 5,000 square feet or less.

ALTERNATIVES: The applicant described an earlier proposal that would have impacted over 4 acres of wetlands/waters. The applicant indicated that total wetland avoidance is not feasible and practicable given the number and scattered locations of wetlands and ditches on the site. Also, even if some of the wetland areas could be avoided from filling, it would be difficult to maintain hydrology to these areas. The no build alternative would not allow the landowner to develop the site in accordance with the City of Otsego's comprehensive plan.

COMPENSATORY WETLAND MITIGATION: The applicant has designed a wetland replacement plan that is meant to offset all of the wetland fill and drainage impacts, as well as the areas included in the City's setback zone. The current replacement plan provides for the creation of about 4.13 acres of new wetland at numerous locations on the site. The proposed wetland areas would include features such as irregular contours and slopes no steeper than 5 to 1 (many are at 10 to 1). Native seed mixes would be used in the created wetland areas and in the disturbed upland buffer areas. While no buffer areas are proposed to obtain public value credits under the Minnesota Wetland Conservation Act, 20 foot wide buffers would be provided to comply with City requirements.

DESCRIPTION OF DREDGING OR EXCAVATION: Two wetland basins (21 and 22) would be excavated and enlarged as part of the overall wetland mitigation plan.

SURROUNDING LAND USE: The surrounding land has been in agriculture; however, some of this is currently being developed into housing, or is being planned for residential use.

3. REPLIES/COMMENTS.

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 190 Fifth Street East, Saint Paul, MN 55101-1638.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Timothy J. Fell at the St. Paul office of the Corps, telephone number (651) 290-5360.

4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.

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None were identified by the applicant or are known to exist in the permit area. However, Wright County is within the known or historic range of the following Federally-listed threatened species:

<u>Species</u> <u>Habitat</u>

Bald eagle Mature forest near water

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

5. JURISDICTION.

This project comes under the regulatory jurisdiction of the Corps of Engineers because several of the unnamed wetlands being impacted are part of the tributary system of Otsego Creek, which empties into the Mississippi River, a navigable water of the United States.

REGULATORY AUTHORITY: This application will be reviewed according to the provisions of Section 404 of the Clean Water Act. Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 Code of Federal Regulations 230).

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED: City of Otsego

6. STATE SECTION 401 WATER QUALITY CERTIFICATION.

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

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The MPCA has eliminated the staffing resources for the Section 401 certification program due to budgetary limitations. Due to staff reductions, MPCA is intending to waive many section 401 certification applications with limited exceptions but the MPCA reserves the right and authority to proceed differently if extreme or unique circumstances merit a different approach. In many cases, the waiver of 401 certification means that the MPCA has not reviewed federally permitted projects in detail for conformance with state water quality standards nor has the MPCA made a determination of the proposal's compliance with state water quality standards. This waiver action, however, will not exempt the applicant from the responsibility of complying with all applicable water quality standards and requirements as contained in Minn. R. ch. 7050 and all other applicable state rules regarding water quality. The applicant will need to make a self-determination of water quality compliance of their proposal. In the event of water quality violations caused by the applicant's project, enforcement action may be taken by the MPCA.

Any comments relative to MPCA's intention to waive Section 401 Certification for the activity proposed in this public notice may be sent to:

> Minnesota Pollution Control Agency Regional Environmental Management Division Attention 401 Certification 520 Lafayette Road, North St. Paul, Minnesota 55155-4194

7. HISTORICAL/ARCHAEOLOGICAL.

This public notice is being sent to the National Park Service, the State Archaeologist, and the State Historic Preservation Officer to determine if there are known cultural resources which may be affected by the described work. Any unknown archaeological, scientific, or historical data could be lost or destroyed by the work described in the permit application. However, the latest version of the National Register of Historic Places has been consulted and no listed properties (known to be eligible for inclusion, or included in the Register) are located in the project area.

During the Environmental Assessment Worksheet process, the SHPO indicated that no properties listed on the National Register of Historic Places are within the project's area of effect. (SHPO file 2003-0442)

8. PUBLIC HEARING REQUESTS.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be

denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

9. PUBLIC INTEREST REVIEW.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

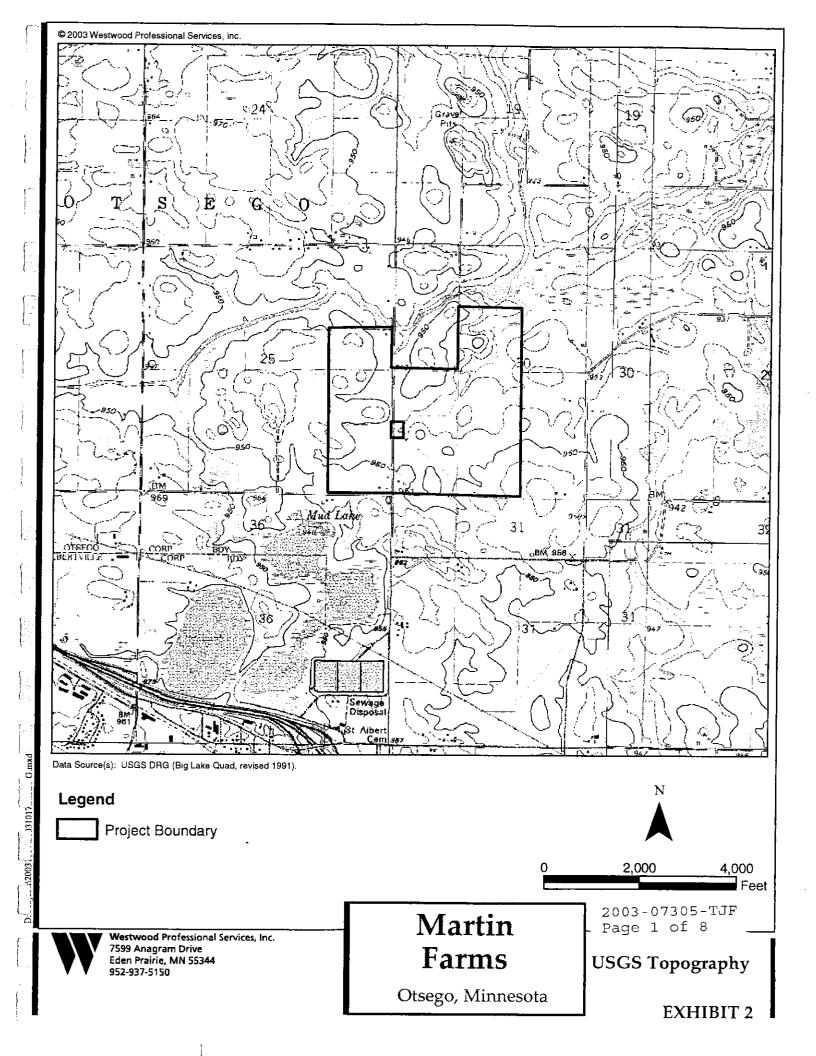
The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

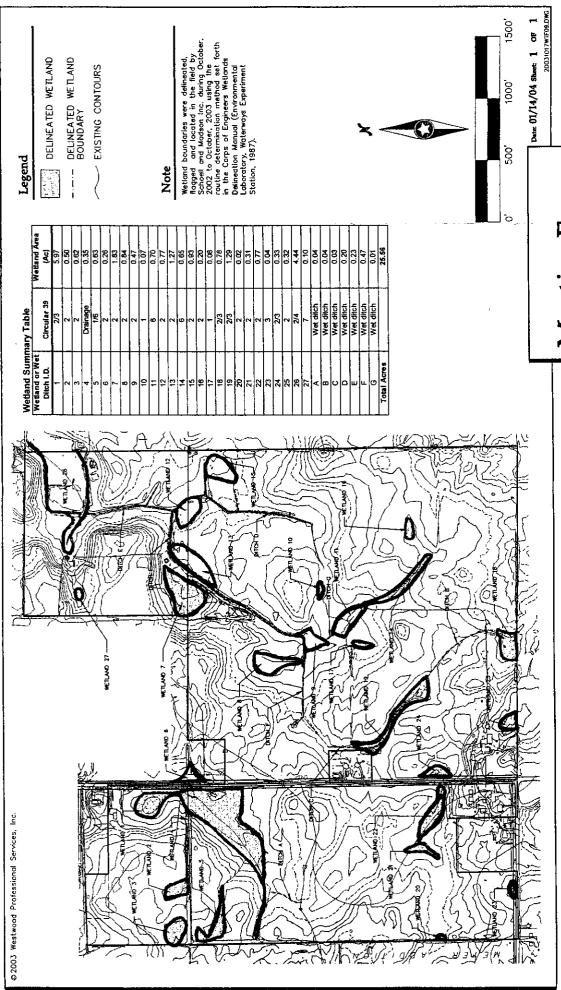
Ralph J. Augustin

Chief, Metro Permit Section

Enclosures

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.





Martin Farms

Otsego, Minnesota

Insignia Development

DACE 6 윒

Contract Contract

Westwood Professional Services, Inc. 7399 Angram Drives feen Prairie, INN 553-4 Phone: 952/937-5822

PIZE

Record Describe by/date

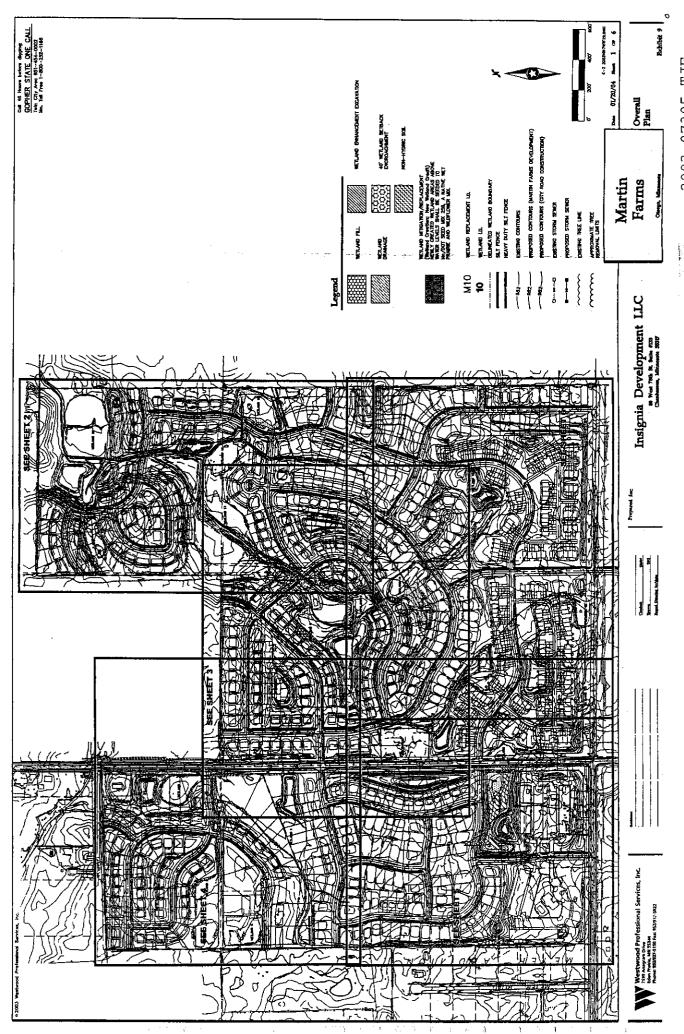
80 West 78th Street, Suite 133 Chanhassen, MN 55317

Wetland

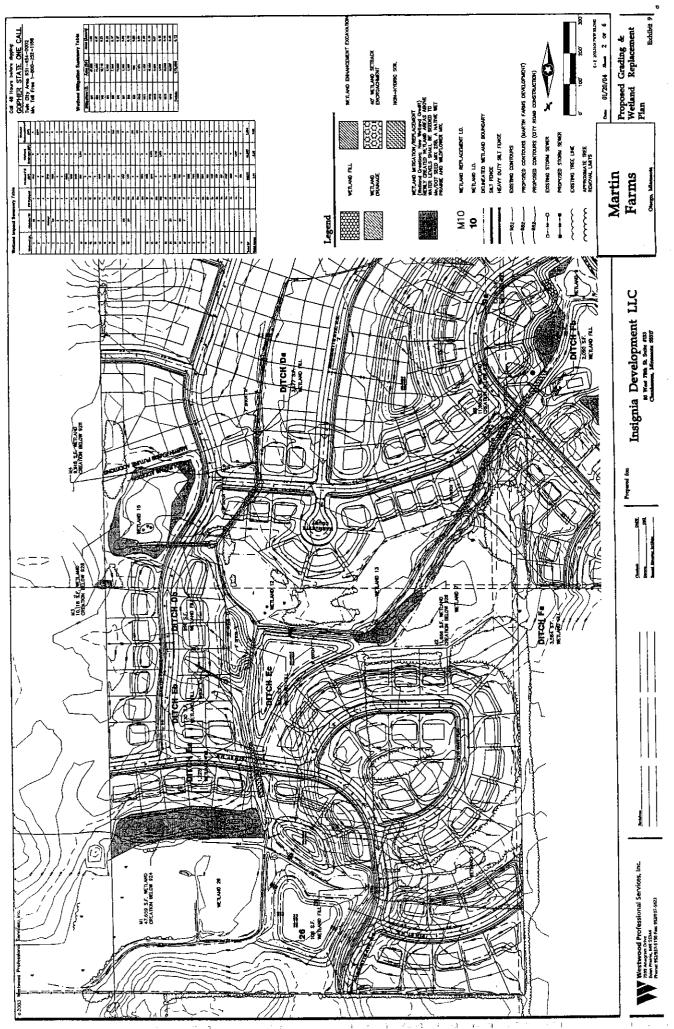
Boundary Map

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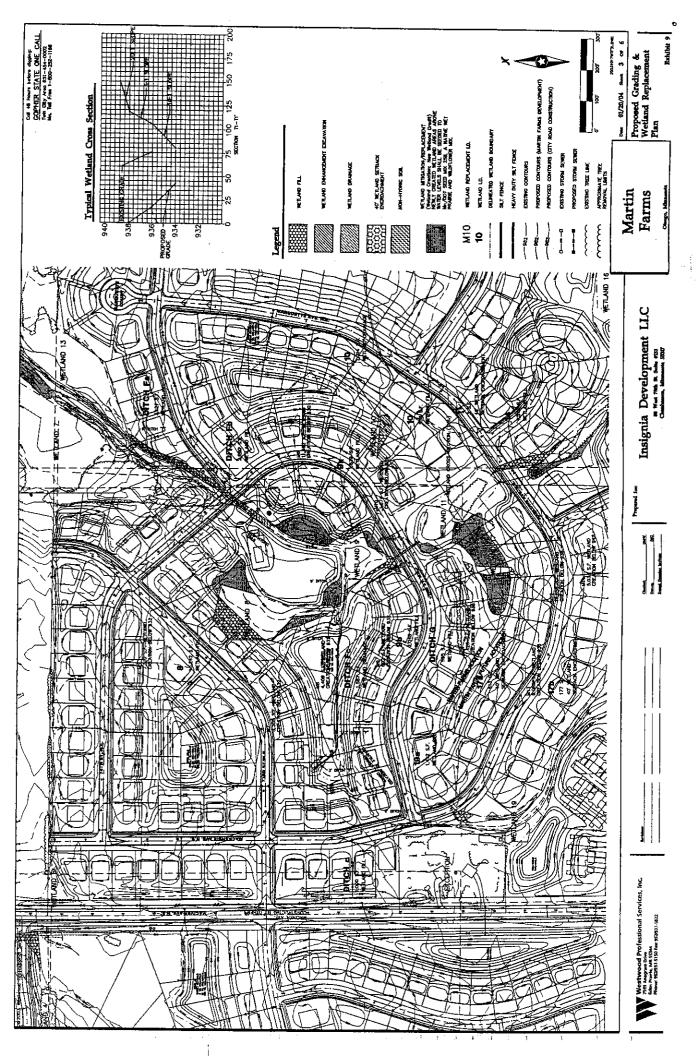
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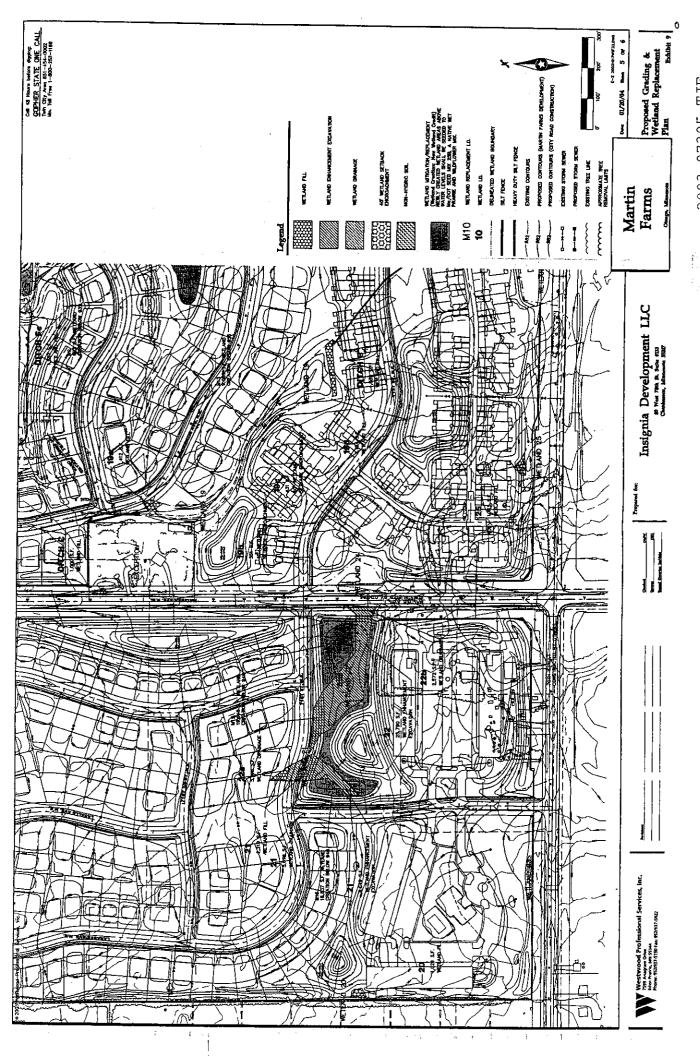


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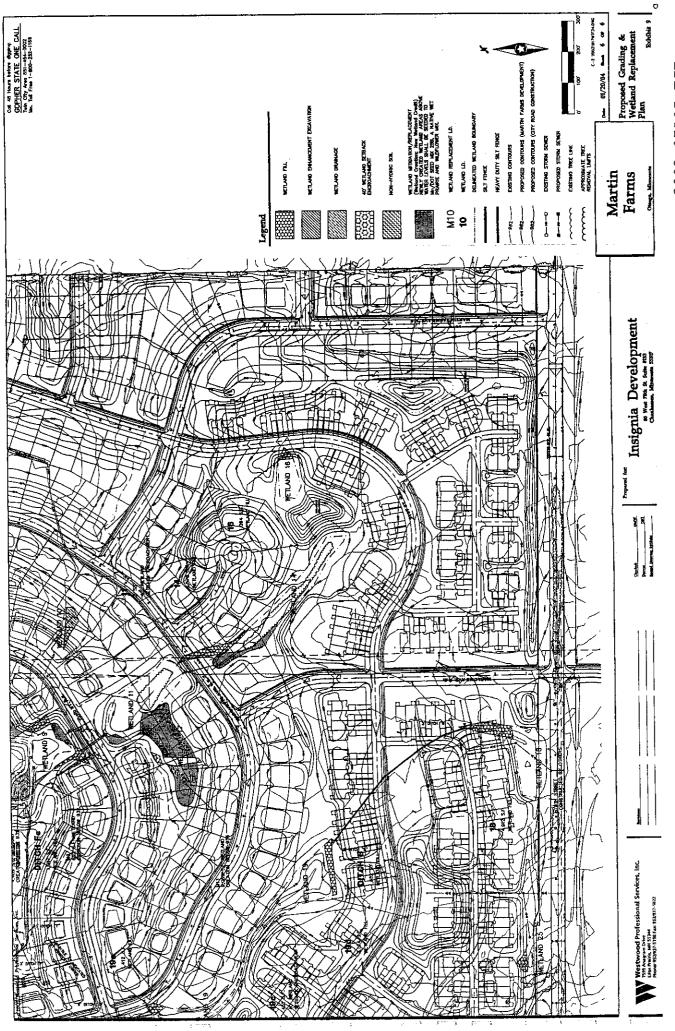


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DEPARTMENT OF THE ARMY St Paul District, Corps of Engineers Army Corps of Engineers Centre 190 Fifth Street East St Paul, Minnesota 55101-1638

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